Federal Communications Commission 445 12th Street, SW Washington, DC 20554

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DA 20-253 March 12, 2020

INCENTIVE AUCTION OF UPPER MICROWAVE FLEXIBLE USE SERVICE LICENSES IN THE UPPER 37 GHz, 39 GHz, AND 47 GHz BANDS FOR NEXT-GENERATION WIRELESS SERVICES CLOSES

WINNING BIDDERS ANNOUNCED FOR AUCTION 103

Down Payments Due March 26, 2020 FCC Forms 601 and 602 Due March 26, 2020 Final Payments Due April 9, 2020

FCC Form 1877 for Incentive Payments Due April 13, 2020

AU Docket No. 19-59

I. INTRODUCTION

- 1. By this Public Notice, the Office of Economics and Analytics (OEA), in conjunction with the Wireless Telecommunications Bureau (WTB), announces the results of Auction 103, the incentive auction of Upper Microwave Flexible Use Service (UMFUS) licenses in the Upper 37 GHz, 39 GHz, and 47 GHz bands. This Public Notice specifies deadlines for payments and the filing of long-form applications and gives details for other post-auction procedures, including procedures regarding related incentive payments.
- 2. On March 5, 2020, bidding in Auction 103 concluded following the close of bidding in the assignment phase.¹ The incentive auction offered licenses made available because existing 39 GHz licensees committed to relinquish their 39 GHz spectrum usage rights in exchange for incentive payments determined by the results of Auction 103. Auction 103 raised a total of \$7,558,703,201 in net bids (\$7,569,983,122 in gross bids), with 28 bidders winning a total of 14,142 licenses.² Based on these bids, the incentive payments for existing licensees total \$3,084,172,898, and the net proceeds for the auction total \$4,474,530,303.³

¹ Bidding in the clock phase of Auction 103 concluded on January 30, 2020. Close of Clock Phase Bidding in Auction 103 (Upper 37 GHz, 39 GHz, and 47 GHz); Schedule for Assignment Phase Mock Auction; Availability of Assignment Phase User Guide and Online Tutorial; Assignment Phase Bidding Begins February 18, 2020, Public Notice, AU Docket No. 19-59, DA 20-120, at 1, para. 1 (OEA/WTB Feb. 5, 2020).

² "Gross bids" refers to the total amount of winning bids at the close of bidding and does not reflect any small business or rural service provider bidding credits claimed by eligible winning bidders. "Net bids" refers to the total amount of winning bids as adjusted for any small business or rural service provider bidding credits claimed by winning bidders.

³ See Incentive Auction of Upper Microwave Flexible Use Service Licenses in the Upper 37 GHz, 39 GHz, and 47 GHz Bands for Next-Generation Wireless Services; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 103; Bidding in Auction 103 Scheduled to Begin December (continued....)

3. We will send to each Auction 103 qualified bidder an email with a link to the location of this Public Notice on the Commission's website. Each qualified bidder will also receive a package in the next few days that includes a copy of this Public Notice, which provides instructions on how to make payments for winning bids, and an envelope for the return of RSA SecurID® tokens used in Auction 103 bidding. In addition to the materials that all qualified bidders will receive, each 39 GHz licensee that filed FCC Form 175-A for relinquishing spectrum usage rights will receive a letter providing a copy of FCC Form 1877 to provide required acknowledgements and instructions with respect to any incentive payment, along with a copy of this Public Notice.

II. AUCTION 103 RESULTS AND PAYMENTS

A. Incentive Payments for Incumbent 39 GHz Licensees

- 4. This Public Notice announces the proceeds from Auction 103 that will be shared, pursuant to the Commission's incentive auction authority,⁴ in exchange for each pre-auction commitment to relinquish existing 39 GHz spectrum usage rights made by incumbent 39 GHz licensees.⁵ Pursuant to the *Updated 39 GHz Reconfiguration Procedures Public Notice*, Commission staff quantified spectrum usage rights corresponding to existing 39 GHz licenses in terms of licensed bandwidth and population, or MHz-pops, by Partial Economic Area (PEA). Each licensee's resulting MHz-pops were aggregated within each PEA. In addition, the Commission treated separate 39 GHz licenses held by entities that control or are controlled by each other and/or have controlling ownership interests in common ("commonly controlled entities") as held by a single entity for reconfiguration purposes.⁶
- 5. Each existing 39 GHz licensee voluntarily committed to relinquish all 39 GHz spectrum usage rights in exchange for an incentive payment, with commonly controlled entities holding 39 GHz licenses making a single joint commitment.⁷ Auction 103 bidding for new licenses determined the incentive payment amount for any relinquished spectrum usage rights. An incentive payment reduces the

(Continued from previous page)

10, 2019, Public Notice, 34 FCC Rcd 5532, 5584-85, paras. 164-66 (2019) (Auction 103 Procedures Public Notice); see generally Notice of Updated 39 GHz Reconfiguration Procedures; Preparation for Incentive Auction of Upper Microwave Flexible Use Service Licenses in the 37 GHz, 39 GHz, and 47 GHz Bands (Auction 103); Order of Modification, Public Notice, 34 FCC Rcd 2952 (WTB/OEA 2019) (Updated 39 GHz Reconfiguration Procedures Public Notice).

⁴ Use of Spectrum Bands Above 24 GHz For Mobile Radio Services et al., Fourth Report and Order, 33 FCC Rcd 12168, 12171, para. 7 (2018) (Spectrum Frontiers Fourth R&O); see also 47 U.S.C. § 309(j)(8)(G).

⁵ Incumbent Relinquishment and Incentive Payment report attached to this Public Notice.

⁶ Spectrum Frontiers Fourth R&O, 33 FCC Rcd at 12176, para. 22. Specifically, the Commission identified the following three groups of entities as commonly controlled entities holding 39 GHz licenses licensees: (1) Alascom, Inc., FiberTower Spectrum Holdings LLC, and Teleport Communications, LLC (controlled by parent company AT&T Inc.); (2) licensees Cellco Partnership and Straight Path Spectrum, LLC (controlled by parent company Verizon Communications, Inc.); and (3) licensees Sauro, Ronna L and Video Multipoint, Inc. (controlled by *de facto* manager Video Multipoint, Inc.). Seven other licensees hold the remaining existing 39 GHz licenses, without commonly controlled entities. These seven are Consolidated Communications Enterprise Services, Inc; David E Beyerle; GEC Partners LLP; Mountain Microwave Inc.; PVT Networks, Inc.; Spectrum Communications LLC; and T-Mobile License LLC.

⁷ The existing 39 GHz license(s) held by each incumbent 39 GHz licensee will be cancelled prior to making the related incentive auction payment. *See* section III.K (Incumbent 39 GHz License Cancellation and Special Temporary Authority), below.

amount of any winning bids for new licenses by the entity making the commitment, with the balance payable in cash when auction proceeds become available.⁸

1. Incentive Payment Amounts

- 6. The Incumbent Relinquishment and Incentive Payment attachment, Attachment A to this Public Notice, provides the following information with respect to each commitment:
 - Incumbent (name of the entity that submitted the commitment for itself and commonly controlled entities holding 39 GHz licenses, if any);
 - FRN (incumbent's Federal Communications Commission Registration Number associated with its 39 GHz licenses);
 - Qualified Bidder (identifies whether the incumbent was qualified to bid in Auction 103);
 - Relinquished Weighted MHz-Pops (total spectrum usage rights to be relinquished, pursuant
 to the incumbent's commitment, provided by 39 GHz licenses held by the incumbent and any
 held by commonly controlled 39 GHz licensees, if any, expressed as the product of the
 bandwidth licensed and the population of the geographic area licensed, weighted to take into
 account prior auction prices across areas); and
 - Incentive Payment (amount of Auction 103 proceeds to be shared with the incumbent and/or one of its commonly controlled entities holding 39 GHz licenses, which will be applied first to reduce incumbent's net winning bid amount, if any, and the balance of which will be payable when auction proceeds are available).
- 7. Each incentive payment will be made when enough auction proceeds have become available to make the payment in full. Post-auction winning bid payments become available as auction proceeds only when the Commission grants licenses covered by the respective winning bid payments. Until then, the Commission holds any winning bid payments while it processes winning bidders' license applications.

2. Incentive Payment Acknowledgements and Instructions (FCC Form 1877)

- 8. Each existing 39 GHz licensee must provide acknowledgements regarding the relinquishment of spectrum usage rights and instructions for making any cash incentive payments prior to granting new licenses won in Auction 103 or making cash incentive payments. Each incumbent that made a commitment for itself and/or other commonly controlled entities holding pre-auction 39 GHz licenses will receive a copy of FCC Form 1877 for this purpose. FCC Form 1877 must be completed and returned by April 13, 2020 to allow adequate time for review and processing without risking delay in Auction 103 licenses being granted to the incumbent or respective cash incentive payment(s) being made. The uncertain timing of when auction proceeds will become available prevents setting a definite schedule for when payments will be made. Absent receipt of an acceptable FCC Form 1877, however, the Commission cannot grant existing licensees Auction 103 licenses or make a cash incentive payment. FCC Form 1877 is the only form of acknowledgements and instructions that the Commission will accept. The executed and notarized original FCC Form 1877 must be returned to the Commission, including authorized signatures on behalf of the incumbent and all commonly controlled 39 GHz licensees, if any. Copies are not acceptable.
- 9. FCC Form 1877 has three parts. All applicable parts must be completed and returned to the address indicated in the form. Each incumbent must complete both Parts 1 and 2 of Form 1877.

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⁸ Spectrum Frontiers Fourth R&O, 33 FCC Rcd at 12179, para. 34. Existing licensees choosing not to participate in the auction for new licenses or with no winning bids can receive the full amount in cash. *Id.*

Commonly controlled 39 GHz licensees, if any, also must complete Part 2. An incumbent for which an incentive payment amount may be made in cash also must provide instructions in Part 3 regarding the accounts to receive payments.

- 10. Part 1 of FCC Form 1877 consists of identifying information for the incumbent, the party that made the initial commitment on its own behalf and on behalf of any commonly controlled 39 GHz licensees. Part 2 consists of required acknowledgements and certifications and must be completed separately on behalf of the incumbent and on behalf of each commonly controlled 39 GHz licensee, if any. An authorized corporate officer signing Part 2 on behalf of the incumbent or a commonly controlled 39 GHz licensee should identify the corporation holding the license when providing the officer's corporate title in the space provided under the officer's typed or printed name and above the officer's signature. Finally, Part 3 provides information regarding how any cash incentive payment is to be made.
- Part 3 must be completed before the Commission can direct that any cash incentive payment be made. Any incumbent that will **not** receive a cash incentive payment because the full amount of its incentive payment will be used to pay winning bid obligations for new licenses does **not** need to complete Part 3. Part 3 enables a group of commonly controlled 39 GHz licensees receiving a cash incentive payment to provide instructions regarding which licensees will receive what portions of the payment. Each recipient of a cash incentive payment must provide a taxpayer identification number (TIN), along with other required information. The current TIN provided in FCC Form 1877 must match the TIN associated with the recipient's FRN provided in CORES, the Commission's registration system. Recipients may need to update TIN information previously provided in CORES. An individual authorized to administer the recipient's FRN can update the TIN information by visiting the FCC Registration Number website at https://apps.fcc.gov/cores to update its records. Any update needed should be made prior to the submissions of FCC Form 1877.
- 12. When sufficient auction proceeds become available, Commission staff will release a public notice announcing the cancellation of existing 39 GHz licenses in exchange for the incentive payments that can be made and directing the U.S. Treasury to make specified related cash incentive payments. Accordingly, the public notice will list the 39 GHz licensees whose pre-auction licenses have been cancelled and the cash incentive payment amounts that 39 GHz licensees will receive. The Commission does not control the precise dates on which the U.S. Treasury will make each incentive payment, when each incentive payment will be received in the account identified in FCC Form 1877, or when each incentive payment becomes available to the account holder.
- 13. If any incumbent is currently operating on frequencies covered by its 39 GHz licenses and needs additional time to transition these operations, then that incumbent should review the instructions on filing an application for Special Temporary Authority (STA) provided in this Public Notice.

⁹ See Updated 39 GHz Reconfiguration Procedures Public Notice, 34 FCC Rcd at 2970, para. 62.

¹⁰ In the event that the Commission can make some incentive payments before being able to make all that are outstanding, the sequence in which incentive payments will be made will be determined by the post-auction transition process.

¹¹ Portions of an incentive payment may be offset by applicable debts. Moreover, the U.S. Treasury has authority to offset federal payments, including incentive payments, based on information not available to the Commission. *See generally* 31 U.S.C. § 3701 *et seq*. An existing licensee needing information regarding any discrepancy between the amount on the payment list and the payment may need to seek the information directly from the U.S. Treasury by calling 1-800-304-3107. Hearing-impaired callers may use the Federal Relay Service by dialing 1-800-877-8339 to reach a communications assistant who will dial the toll-free number.

B. Summary of Auction Results by Bidder

- 14. The Winning Bidders attachment, Attachment B to this Public Notice, lists each winning bidder and summarizes each winning bidder's auction results. For each winning bidder, Attachment B provides the following information:
 - Bidder (name of the applicant that participated in Auction 103);
 - FRN (bidder's FCC Registration Number);
 - Bidding Credit Type (small or rural; this is the bidding credit type claimed by the bidder
 on its FCC Form 175—i.e., small business or rural service provider—if any, and the
 associated bidding credit percentage);
 - Number of Licenses Won (total number of licenses won by the bidder);
 - Number of PEAs (total number of PEAs in which the bidder won licenses);
 - Relinquished Licenses (identifies whether the bidder is an incumbent that has relinquished licenses in the 39 GHz band);
 - Gross Payment (aggregate amount of all winning bids by the bidder, including any assignment round payments); and
 - Net Payment Amount or (Refund) (gross payment less incentive payment, if any, and less applicable discounts for any bidding credit claimed, subject to applicable caps, if any payable to the Commission if positive or payable by the Commission as an incentive payment if negative).

C. Bidder Payments and Refunds

- 15. The Bidder Payment/Refund attachment, Attachment C to this Public Notice, lists each qualified bidder and summarizes each bidder's upfront payment and post-auction payments or refund with respect to Auction 103. Specifically, for each bidder, Attachment C provides the following information:
 - Bidder (the name of the applicant that participated in Auction 103);
 - FRN (bidder's FCC Registration Number);
 - Total Net Winning Bid Amount (total winning bids held by the bidder at the close of Auction 103, if any, taking into account any applicable bidding credits);
 - Incentive Payment (amount of Auction 103 proceeds to be shared in exchange for relinquished spectrum usage rights provided by the bidder's pre-auction 39 GHz licenses, if any);
 - Net Payment Amount or (Refund) (total net winning bid amount less any incentive payment; negative amounts are refunds payable as cash incentive payments, and will appear in Attachment C in parentheses);
 - Upfront Payment Amount;
 - Down Payment Amount (20% of net payment payable to the Commission; zero if a net refund is payable to the bidder);
 - Additional Amount Due for Down Payment After Upfront Payment Applied Due by March 26, 2020 (down payment less upfront payment, with a minimum value of \$0);
 - Final Payment Amount (80% of net payment payable to the Commission; zero if a net refund is payable to the bidder); and

• Final Balance Due by April 9, 2020 or (Refund) (final payment amount less any remaining upfront payment amount not applied to down payment; any refund is the sum of any net payment refund and the upfront payment, and will appear in Attachment C in parentheses).¹²

D. Results by License

- 16. Concurrent with the release of this Public Notice, the Commission will make results information for each license won in Auction 103 available in the Public Reporting System (PRS). This information includes the price for the license as calculated by the auction system (gross and net), the PEA name and number, the frequency block of the license, the name of the winning bidder, and the type and amount of any bidding credit claimed by the bidder. This information may be viewed on screen or downloaded as a comma-separated values (CSV) file. 14
- 17. The auction system calculated per-license prices after the close of the assignment phase by first determining a gross price for each license that a bidder won by adding any assignment payment to the final clock phase price. When an assignment payment applies to more than one license, the payment is apportioned to the licenses based on their relative final clock phase prices. For a bidder claiming a bidding credit discount, the net post-auction price is determined by similarly apportioning the bidder's total discount and subtracting the apportioned amount from the gross license price. Additional information about how per-license prices are calculated is provided in the *Auction 103 Assignment Phase Technical Guide*, available in the "Education" section of the Auction 103 website (www.fcc.gov/auction/103).

III. POST-AUCTION DEADLINES AND PROCEDURES

A. Down Payments – Due Before 6:00 p.m. ET on March 26, 2020

18. The Commission's rules require that within 10 business days after the release of this Public Notice, in this case by **6:00 p.m. Eastern Time (ET) on March 26, 2020**, each winning bidder in Auction 103 must have on deposit with the Commission enough funds to cover the down payment on its winning bid(s). Specifically, each winning bidder's total amount on deposit must be 20% of the aggregate net payment amount of its winning bid(s). Any winning bidder whose upfront payment is not sufficient to meet this requirement must deposit additional funds to meet its required down payment.

¹² Refund amounts shown in parentheses consist first of upfront payment amounts not needed for net payment amounts and second of any incentive payment amounts not needed for net payment amounts. Refunds of upfront payment amounts and payment of incentive payment amounts are handled separately as described in this Public Notice.

¹³ This file regarding the winning bid and bidder for each license won will not include licenses not assigned to a winning bidder. The Assignment Phase Unassigned Licenses file available in the PRS will contain information about licenses in Auction 103 that were not assigned to a bidder (i.e., licenses still held by the FCC).

¹⁴ The PRS can be accessed directly at <u>auctiondata.fcc.gov</u> or from a link in the "Results" section of the Auction 103 website (<u>www.fcc.gov/auction/103</u>). The CSV file is accessible via the "Results by License" link in the "Assignment Phase" section of the PRS navigation bar.

¹⁵ A bidder's bidding credit discount is calculated based on the bidder's gross payment less the bidder's incentive payment, if any.

¹⁶ 47 CFR § 1.2107(b); Auction 103 Procedures Public Notice, 34 FCC Rcd at 5599, para. 237.

¹⁷ Any incentive payment will reduce the net payment amount and so already will have been taken into account.

¹⁸ 47 CFR § 1.2107(b).

- 19. All down payments must be made by wire transfer as instructed in this Public Notice and must be received in the Commission's account at the U.S. Treasury before 6:00 p.m. ET on March 26, 2020. The down payment amount due from a particular winning bidder, if any, is set out in the "Additional Amount Due for Down Payment After Upfront Payment Applied Due by March 26, 2020" column of the Bidder Payment/Refund attachment. Note that an additional payment toward the down payment due is necessary only if a winning bidder's upfront payment does not cover the required total down payment (as reflected in the attachment).
- 20. If a winning bidder fails to complete this down payment process consistent with the payment method described in this Public Notice by 6:00 p.m. ET on March 26, 2020, then it will be in default.¹⁹

B. Final Payments – Due Before 6:00 p.m. ET on April 9, 2020

- 21. Each winning bidder in Auction 103 must submit a payment of any positive balance of the net payment amount for its winning bid(s), as set out in the "Final Balance Due by April 9, 2020 or (Refund)" column of the Bidder Payment/Refund attachment.²⁰ This payment must be made by wire transfer as instructed in this Public Notice and must be received in the Commission's account at the U.S. Treasury before 6:00 p.m. ET on April 9, 2020, to avoid a late fee or default. A late payment after this deadline must be made by wire transfer as instructed in this Public Notice and must be received in the Commission's account at the U.S. Treasury before 6:00 p.m. ET on April 23, 2020, along with the 5% late fee required by section 1.2109(a) of the Commission's rules, to avoid default.²¹ Note that an additional payment toward the final payment due is necessary only if a winning bidder's upfront payment does not cover the required total down payment and final payment (as reflected in the attachment).
- 22. If a winning bidder fails to complete the final payment process consistent with the payment method described in this Public Notice by 6:00 p.m. ET on April 9, 2020 (or by 6:00 p.m. ET on April 23, 2020, along with the 5% late fee), then it will be in default.²²
- 23. A winning bidder's request for a tribal lands bidding credit has no effect on the bidder's obligations to make any auction payments, including down payments and final payments, that are due before the award of the credit.²³ Thus, a winning bidder's final payment and any applicable late fees must be paid in full by the due date even if the winning bidder has applied for a tribal lands bidding credit.²⁴ If a request for a tribal lands bidding credit is approved, then the amount of the credit will be calculated and awarded prior to license grant.²⁵

C. Payment Instructions for Down Payments and Final Payments

24. All down payments and final payments must be made by wire transfer to the Commission's account at the U.S. Treasury in accordance with the instructions in this Public Notice by the applicable deadline. We urge winning bidders to pay close attention to the payment instructions we announce here because they differ from instructions provided for upfront payment procedures

¹⁹ See section III.D (Default and Disqualification Payments), below.

²⁰ 47 CFR § 1.2109(a).

²¹ Id

²² See section III.D (Default and Disqualification Payments), below.

²³ 47 CFR § 1.2110(f)(3)(vi).

²⁴ *Id.* § 1.2109(a).

²⁵ *Id.* § 1.2110(f)(3)(vi).

for this auction. Winning bidders should contact Scott Radcliffe of the Office of the Managing Director's Revenue & Receivables Operations Group/Auctions at (202) 418-7518, Scott.Radcliffe@fcc.gov, or Theresa Meeks at (202) 418-2945, Theresa.Meeks@fcc.gov, with any questions about making a down payment or final payment well in advance of the applicable deadlines.

- 25. All payments must be in U.S. dollars and made in the form of a wire transfer. No checks, credit card payments, automated clearing house (ACH), or other forms of payment will be accepted. Each winning bidder is responsible for ensuring timely submission of its down payment and its final payment, if required. To avoid untimely payments, each winning bidder should discuss arrangements with its financial institution (including the institution's closing schedule) several days before it plans to make the wire transfer, and each should allow sufficient time for the transfer to be initiated and completed prior to the deadline. The Commission repeatedly has cautioned auction participants about the importance of planning ahead to prepare for unforeseen last-minute difficulties in making payments by wire transfer.²⁷
- 26. Each winning bidder is responsible for obtaining confirmation from its financial institution that its wire transfer to the U.S. Treasury was successful and from Commission staff that each payment was timely received and deposited into the proper account. To receive confirmation from Commission staff, contact Scott Radcliffe at (202) 418-7518, Scott.Radcliffe@fcc.gov, or Theresa Meeks at (202) 418-2945, Theresa.Meeks@fcc.gov.
- 27. Each payer must include specified information in its wire transfer instructions provided to its bank, as described below. **The Commission no longer requires the submission of a completed FCC Remittance Advice Form (Form 159) with down payments or final payments.**²⁸ The Commission will credit any such payment based on the information accompanying the wire transfer. To submit funds by wire transfer, the winning bidder must include the following information in its wire transfer instructions:

ABA Routing Number: **021030004**Receiving Bank: **TREAS NYC**33 Liberty Street

New York, NY 10045

ACCOUNT NAME: FCC

445 12th Street, SW Washington, DC 20554

ACCOUNT NUMBER: 27000001

Originating Bank Information (OBI Field): (Skip one space between each information item)

"AUCTIONPAY"

APPLICANT FCC REGISTRATION NUMBER (FRN) (use the same FRN as used on the FCC

Form 175)

PAYMENT TYPE CODE: ("D103")

APPLICANT NAME AND PHONE NUMBER OR EMAIL ADDRESS

²⁶ The wire transfer must be initiated by the winning bidder through its bank authorizing the bank to wire.

²⁷ See, e.g., Letter from Margaret W. Wiener, Chief, Auctions and Spectrum Access Div., FCC, to Lee G. Petro, counsel for Four Corners Broadcasting, LLC, 25 FCC Rcd 9046 (WTB 2010); Letter from Margaret W. Wiener, Chief, Auctions and Spectrum Access Div., FCC, to David G. O'Neil, counsel for Spectrum Acquisitions, Inc., 23 FCC Rcd 4765 (WTB 2008); Letter from Margaret W. Wiener, Chief, Auctions and Spectrum Access Div., FCC, to Patrick Shannon, counsel for Lynch 3G Communications Corp., 18 FCC Rcd 11552 (WTB 2003).

²⁸ FCC Form 159 now is used in auctions for upfront payments only.

28. Please direct questions concerning the calculation and submission of down payments, final payments, or refunds to Scott Radcliffe at (202) 418-7518, or Theresa Meeks at (202) 418-2945. Auctions Accounting Branch staff may also be reached through the FCC Auctions Hotline at (717) 338-2868.

D. Default and Disqualification Payments

- 29. The Commission imposes payment obligations on bidders that default on payments due after an auction closes and on bidders that are disqualified.²⁹
- 30. If a winning bidder defaults or is disqualified after the close of the auction (i.e., fails to remit the required down payment by the specified deadline, fails to submit a timely long-form application, fails to make full payment of the balance of its winning bid(s) by the specified deadline, or is otherwise disqualified for any reason), then the defaulting bidder will be subject to the payment obligations described in section 1.2104(g)(2) of the Commission's rules.³⁰ These payment obligations include a deficiency payment and an additional payment amount. The deficiency payment component applies only in the event that the subsequent winning bid the next time a license covering the same spectrum is won in an auction is less than the defaulted bid. The deficiency payment amount is equal to the difference between the amount of the defaulter's bid and the amount of the subsequent winning bid. The additional payment amount is owed by each defaulting bidder and is equal to a percentage of the defaulter's bid or the subsequent winning bid, whichever is less.³¹ The additional default payment for Auction 103 licenses was set at 15% of the applicable bid.³²
- 31. If a winning bidder fails to remit the required down payment by the March 26, 2020 deadline specified in this Public Notice, then the bidder will be deemed to have defaulted, its long-form application will be dismissed, and it will be liable for a default payment as described above.³³
- 32. If a winning bidder fails to pay the balance of its winning bid in a lump sum by the deadline specified in this Public Notice, then it will be allowed to make a late payment within 10 business days after the payment deadline, provided that it also pays a late fee equal to 5% of the amount due.³⁴ If a winning bidder fails to pay (a) the balance due for its winning bid(s) by the payment deadline on April 9, 2020, or (b) the balance of its winning bid(s) plus the late fee by the late payment deadline on April 23, 2020, then it will be deemed to have defaulted, and it will be subject to applicable default payments.³⁵
- 33. The Commission will review an applicant's long-form application (FCC Form 601) only after receipt of full and timely payment for the winning bid(s) and any applicable late fees. The relevant license(s) will be granted only after full and timely payment of any winning bids (and any applicable late fees) and a determination that the long-form application meets Commission requirements for grant.³⁶

²⁹ See 47 CFR §§ 1.2104(g), 1.2109.

³⁰ Id. § 1.2104(g)(2); see also id. § 1.2109; Auction 103 Procedures Public Notice, 34 FCC Rcd at 5601, para. 247.

³¹ 47 CFR § 1.2104(g)(2); see also id. § 1.2109; Auction 103 Procedures Public Notice, 34 FCC Rcd at 5601, para. 247.

³² Auction 103 Procedures Public Notice, 34 FCC Rcd at 5601, para. 248.

³³ 47 CFR §§ 1.2104(g)(2), 1.2109(b).

³⁴ 47 CFR. § 1.2109(a).

³⁵ *Id.* §§ 1.2104(g)(2), 1.2109(a), (c).

³⁶ See id. § 1.2109(a).

34. A bidder that is found to have violated the antitrust laws or the Commission's rules in connection with its participation in the competitive bidding process, in addition to any other applicable sanctions, may be subject to forfeiture of its upfront payment, down payment, or full bid amount, and may be prohibited from participating in future auctions.³⁷

E. Refund of Excess Upfront Payments

- 35. Upfront payment monies on deposit with the Commission that are in excess of an applicant's Auction 103 obligations will be refunded to the payer of record, as identified on the FCC Form 159 submitted with the applicant's upfront payment, unless that payer submits written authorization instructing otherwise.³⁸ To receive a refund, an applicant must submit a written refund request with the information indicated in paragraph 36. Each applicant can provide this information by using the FCC auction application system to file its refund information electronically using the **Refund Form** icon found on the *Auction Application Manager* page. After the required information is completed on the blank form, the form should be printed, signed, and submitted to the Commission by fax, email, or mail as instructed below.
- 36. If an applicant elects not to access the Refund Form through the *Auction Application Manager* page, then the Commission requests that all information listed below be supplied in writing.

Name, address, contact, and phone number of Bank Automated Clearing House (ACH) ABA Number (Please verify this number with your Bank) Account Number to Credit Name of Account Holder FCC Registration Number (FRN)

The refund request must be submitted by fax to the Revenue & Receivables Operations Group/Auctions at (202) 418-2843, by email to RROGWIREFAXES@fcc.gov, or by mail to:

Federal Communications Commission Financial Operations Revenue & Receivables Operations Group/Auctions Scott Radcliffe 445 12th Street, SW, Room 1-C848 Washington, DC 20554

- 37. An applicant seeking a refund should verify that the Tax Identification Number (TIN) associated with its FRN is correct by visiting the FCC Registration Number website at https://apps.fcc.gov/cores to update its records before submitting a refund request. A refund request related to an FRN with no TIN on file cannot be processed until a TIN is provided.
- 38. Refund processing generally takes up to two weeks to complete. Any questions concerning refunds should be directed to Scott Radcliffe at (202) 418-7518, Scott.Radcliffe@fcc.gov, or Theresa Meeks at (202) 418-2945, Theresa.Meeks@fcc.gov. Auctions Accounting Branch staff may also be reached through the FCC Auctions Hotline at (717) 338-2868.

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³⁷ *Id.* § 1.2109(d).

³⁸ This section applies to refunds only up to the amount of a bidder's upfront payment. This section does NOT apply to refund amounts in the Net Payment Amount (or Refund) column of the Bidder Payment/Refund attachment. Those refunds are payable incentive payment amounts. Likewise, any refund amount in the last column of the Bidder Payment/Refund attachment that exceeds the amount of a bidder's upfront payment is payable as an incentive payment.

F. Post-Auction (Long-Form) License Application (FCC Form 601) – Due Before 6:00 p.m. ET on March 26, 2020

- 39. Each winning bidder must submit electronically a properly completed long-form application (FCC Form 601) for all licenses for which it was the winning bidder in Auction 103 before **6:00 p.m. ET on March 26, 2020**.
- 40. Instructions for completing the long-form application (FCC Form 601) are available on the Auction 103 website (www.fcc.gov/auction/103) in the "Education" section (Instructions for Completing FCC Form 601 and FCC Form 602). These instructions also describe how certain information will be automatically transferred from a winning bidder's short-form application (FCC Form 175) to its long-form application (FCC Form 601). A winning bidder claiming eligibility for a small business bidding credit or a rural service provider bidding credit must demonstrate its eligibility in its long-form application for the bidding credit claimed. Winning bidders organized as bidding consortia must comply with the FCC Form 601 post-auction application procedures set forth in section 1.2107(g) of the Commission's rules. For further information regarding long-form application filing requirements, including specific requirements for applicants requesting a bidding credit and for winning bidders organized as consortia, please see the Instructions for Completing FCC Form 601 and FCC Form 602.
- 41. A winning bidder that fails to submit the required long-form application before the specified deadline in this Public Notice and fails to establish good cause for any late-filed submission shall be deemed to have defaulted and shall be subject to the payments set forth in section 1.2104(g) of the Commission's rules.⁴¹

G. Tribal Lands Bidding Credit

- 42. The Commission has implemented a tribal lands bidding credit to encourage the growth of wireless services on the lands of federally recognized tribes. A winning bidder that intends to use its license(s) to deploy facilities and to provide services to federally recognized tribal lands that are unserved by any telecommunications carrier or that have a wireline penetration rate equal to or less than 85% is eligible to receive a tribal lands bidding credit as set forth in sections 1.2107 and 1.2110(f) of the Commission's rules.⁴² A tribal lands bidding credit is in addition to, and separate from, any other bidding credit for which a winning bidder may qualify.
- 43. Unlike other bidding credits that are requested prior to the auction, a winning bidder applies for the tribal lands bidding credit after the auction when it files its FCC Form 601 post-auction application. The winning bidder should file a single separate application for all of the licenses won in the auction for which the winning bidder intends to seek a tribal lands bidding credit. When initially filing this tribal lands bidding credit specific application, the winning bidder will be required to advise the Commission that it intends to seek a tribal lands bidding credit for each license listed on the application by checking the designated box(es). After stating its intent to seek a tribal lands bidding credit, the winning bidder will have 180 days from the close of the post-auction application filing window to amend

³⁹ *Id.* § 1.2112(b).

⁴⁰ *Id.* § 1.2107(g); *Auction 103 Procedures Public Notice*, 34 FCC Rcd at 5600, para. 241; *see also Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures*, Report and Order, 21 FCC Rcd 891, 911-12, paras. 51-52 (2006); *Updating Part 1 Competitive Bidding Rules et al.*, Order on Reconsideration of the First Report and Order; Third Order on Reconsideration of the Second Report and Order; Third Report and Order, 30 FCC Rcd 7493, 7535, para. 101 (2015) (modified by Erratum, 30 FCC Rcd 8518 (2015)).

⁴¹ 47 CFR § 1.2104(g); see also id. § 1.2107(c).

⁴² *Id.* §§ 1.2107, 1.2110(f).

its application to select the specific tribal lands to be served and to provide the required tribal government certifications. Licensees receiving a tribal lands bidding credit are subject to performance criteria as set forth in section 1.2110(f)(3)(vii) of the Commission's rules.⁴³

44. For additional information on the tribal lands bidding credit, including how the amount of the credit is calculated, applicants should review the Commission's rulemaking proceeding regarding tribal lands bidding credits and related public notices.⁴⁴ For additional information about what a winning bidder must provide in its long-form application if it wishes to claim the tribal lands bidding credit, please see the Instructions for Completing FCC Form 601 and FCC Form 602.

H. Ownership Disclosure Information Report (FCC Form 602)

45. Pursuant to sections 1.913, 1.919, and 1.2107(f) of the Commission's rules, an applicant for a license offered at auction must, at the time of submitting its FCC Form 601, have on file with the Commission a current ownership disclosure information report (FCC Form 602) that provides the applicant's complete and accurate ownership information.⁴⁵ As explained in the Instructions for Completing FCC Form 601 and FCC Form 602, filing an ownership disclosure information report (FCC Form 602) is a separate requirement from, and in addition to, the ownership reporting requirements associated with filing an FCC Form 601, Exhibit A. ⁴⁶ A winning bidder should carefully follow the instructions set forth in the Instructions for Completing FCC Form 601 and FCC Form 602 when filing its ownership disclosure report.

I. Maintaining Accuracy of Information

46. Now that Auction 103 has closed, all required changes to an Auction 103 applicant's information must be made by filing or amending the applicant's long-form application (FCC Form 601) in the Commission's Universal Licensing System (ULS).⁴⁷ With the release of this Public Notice, an Auction 103 applicant is no longer required to continue maintaining the accuracy and completeness of information furnished in its Auction 103 short-form application (FCC Form 175) and exhibits.

J. Application Processing, Petitions to Deny, and License Grant

47. After its initial review of the long-form applications, WTB will issue a public notice listing the applications that are acceptable for filing. Pursuant to section 1.2108(b) of the Commission's

⁴³ *Id.* § 1.2110(f)(3)(vii).

⁴⁴ See generally Extending Wireless Telecommunications Services to Tribal Lands, Report and Order and Further Notice of Proposed Rule Making, 15 FCC Rcd 11794 (2000); Second Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 4775, 4778-79, para. 10 (2003); Third Report and Order, 19 FCC Rcd 17652 (2004); see also Wireless Telecommunications Bureau Announces Enhancements to the Universal Licensing System to Help Winning Bidders of FCC Auctions File for Tribal Land Bidding Credits, Public Notice, 16 FCC Rcd 5355 (WTB 2001); Wireless Telecommunications Bureau Releases Additional Information Regarding the Procedures for Obtaining a Tribal Lands Bidding Credit and List of Tribal Lands, Public Notice, 15 FCC Rcd 24838 (WTB 2000); Wireless Telecommunications Bureau Announces Availability of Bidding Credits for Providing Wireless Services to Qualifying Tribal Lands: Tribal Lands Bidding Credits to be Available Beginning in Auction No. 36 (800 MHz Specialized Mobile Radio (SMR) Lower 80 Channels) and in Future Auctions, Public Notice, 15 FCC Rcd 18351 (WTB 2000). Relevant documents can be viewed on the Commission's website by going to www.fcc.gov/auctions and clicking on the "Tribal Lands Credits" link.

⁴⁵ 47 CFR §§ 1.913, 1.919, 1.2107(f).

⁴⁶ The FCC Form 601 ownership reporting requirement can be fulfilled by referencing the file number, date, and name of filer of the appropriate FCC Form 602. See discussion in the Instructions for Completing FCC Form 601 and FCC Form 602.

⁴⁷ See 47 CFR § 1.65.

rules, interested parties will have 10 days from the release of that public notice within which to file petitions to deny any of these applications.⁴⁸ An applicant may file an opposition to any petition to deny within five business days after the time for filing petitions to deny has expired.⁴⁹ Replies must be filed within five business days after the time for filing oppositions to a petition to deny has expired.⁵⁰ The Commission reminds all parties and their counsel that the Commission intends to use its authority fully to deter the filing of frivolous pleadings.⁵¹

48. After the long-form review process is completed, if Commission staff determines that additional payment from an applicant is due, then WTB will provide further instructions in a future public notice or by demand letter.⁵² If Commission staff determines that an applicant is otherwise qualified and that there are no substantial and material issues of fact, then WTB will issue a public notice announcing grant of the license(s) to the applicant.⁵³

K. Incumbent 39 GHz License Cancellation and Special Temporary Authority

- 49. All 39 GHz incumbent licensees opted to relinquish their spectrum usage rights in their existing 39 GHz licenses in exchange for bidding on new licenses in Auction 103 and/or receiving an incentive payment.⁵⁴ We will cancel these 39 GHz licenses before we grant to winning bidders the Auction 103 licenses that authorize use of the same frequencies. We intend to announce around the same time both the cancellation of relinquished 39 GHz licenses and plans for distribution of any corresponding incentive payments for these licenses.⁵⁵ We refer to the time period between the close of the auction and the cancellation of incumbent 39 GHz licenses as the "transition period."
- 50. By the end of the transition period, 39 GHz incumbents operating on frequencies covered by their relinquished licenses will need to cease operating on those frequencies, if they have not done so already. Because we notified incumbents last year that we would cancel relinquished licenses after the close of the auction, ⁵⁶ we expect that most incumbents should be able to cease operations by the end of the transition period before their relinquished licenses are cancelled. Incumbents operating on the frequencies associated with their relinquished 39 GHz licenses that are also winning bidders in Auction 103 will have their 39 GHz licenses cancelled before their Auction 103 licenses are issued; consequently, they may not be able to maintain a continuity of service as they transition their operations to their Auction 103 license frequencies. To ensure a smooth transition, we encourage 39 GHz incumbents that need continuing authority to operate briefly on the frequencies associated with their relinquished licenses to

⁴⁸ *Id.* § 1.2108(b).

⁴⁹ *Id.* § 1.2108(c).

⁵⁰ *Id*.

⁵¹ See Commission Taking Tough Measures Against Frivolous Pleadings, Public Notice, 11 FCC Rcd 3030 (1996).

⁵² Commission staff may determine, for example, that a winning bidder is not entitled to the level of bidding credit that it has claimed and may require an additional payment to cover the amount of any percentage discount for which it was not eligible.

⁵³ See 47 CFR §§ 1.2108(d), 1.2109(a).

⁵⁴ See Updated 39 GHz Reconfiguration Procedures Public Notice, 34 FCC Rcd at 2967, para. 50.

⁵⁵ See Spectrum Frontiers Fourth R&O, 33 FCC Rcd at 12186, para. 59; Updated 39 GHz Reconfiguration Procedures Public Notice, 34 FCC Rcd at 2967, para. 47. Granting applications for new licenses won in Auction 103 is a prerequisite to making incentive payments to existing 39 GHz licensees.

⁵⁶ Notice of Initial 39 GHz Reconfiguration Procedures; Preparation for Incentive Auction of Upper Microwave Flexible Use Service Licenses in the 37 GHz, 39 GHz, and 47 GHz Bands (Auction 103); Order of Modification; 39 GHz License Transfer and Assignment Freeze, Public Notice, 34 FCC Rcd 1386, 1392, para. 9 (WTB/OEA 2019).

apply for Special Temporary Authority (STA) for those frequencies to allow them additional time, if needed, to transition their operations after these licenses are cancelled.⁵⁷

- Applications for STAs are due by 6:00 p.m. Eastern Time (ET) on March 27, 2020, the day after the FCC Form 601 is due for winning bidders. The Commission's Universal Licensing System (ULS) does not currently accommodate the filing of new applications in the UMFUS bands other than those filed for licenses won at auction. Therefore, all new UMFUS applications for STA must be filed manually, by completing a paper copy of the FCC Form 601 application for an STA. STA applications must include an attachment that requests a waiver of the electronic filing requirement contained in section 1.913(b) of the Commission's Rules.⁵⁸ Applicants should also include an attachment that identifies the frequencies and the geographic areas (corresponding to their existing 39 GHz licenses) on which they seek to continue to operate temporarily, the requested duration of the STA,⁵⁹ and a statement explaining why the STA is needed. These paper applications, which currently do not require a fee, should be mailed to Federal Communications Commission, 1270 Fairfield Road, Gettysburg, PA 17325-7245. Hand-deliveries and messenger-deliveries should be delivered to Federal Communications Commission, 1280 Fairfield Road, Gettysburg, PA 17325. Applicants should also send a PDF copy of their FCC Form 601 STA application and all associated attachments (including a waiver request) via electronic mail to the 39 GHz reconfiguration mailbox: 39ghzreconfiguration@fcc.gov, and provide courtesy copies to Elizabeth Fishel, Elizabeth Fishel@fcc.gov, and Simon Banyai, Simon.Banyai@fcc.gov.
- 52. We will resolve timely filed pending STA requests before cancelling the 39 GHz licenses that are associated with an STA application. We remind incumbents that an STA affords only secondary, non-interfering rights vis-à-vis the primary Auction 103 licensee. We expect, however, that STA holders transitioning off their spectrum should be able to do so before Auction 103 licensees begin their operations. To the extent that an entity operating pursuant to an STA needs to operate beyond the time by which an Auction 103 licensee is ready to provide service in that area, it will be the STA holder's responsibility to come to an agreement with the Auction 103 licensee over continuing operations during any overlapping period.

IV. OTHER IMPORTANT INFORMATION

A. Continuing Prohibition on Certain Communications

53. We remind applicants that the rules prohibiting certain communications set forth in section 1.2105(c) of the Commission's rules apply to each applicant that filed a short-form application (FCC Form 175-A or FCC Form 175) in Auction 103.⁶⁰ Section 1.2105(c)(1) provides that, subject to specified exceptions, after the deadline for filing a short-form application, "all applicants are prohibited from cooperating or collaborating with respect to, communicating with or disclosing, to each other or to any nationwide provider [of communications services] that is not an applicant, or, if the applicant is a nationwide provider, any non-nationwide provider that is not an applicant, in any manner the substance of

⁵⁷ See 47 CFR § 1.931(a). Any 39 GHz incumbents already operating on STAs in the Upper 37 GHz band (37.6-38.6 GHz) may continue to operate under those existing STAs and therefore do not need to apply for new STAs under the process outlined in this Public Notice. We remind these incumbents that they should transition from the frequencies associated with their STAs to their Auction 103 license frequencies as soon as possible once their Auction 103 licenses are granted, and that their operation under these STAs is on a secondary, non-interfering basis.

^{58 47} CFR § 1.913(b).

⁵⁹ Any STA applications that are granted will be granted for a period not to exceed 180 days. *See* 47 CFR § 1.931(a)(3).

⁶⁰ Id. § 1.2105(c); see also Auction 103 Procedures Public Notice, 34 FCC Rcd at 5547, para. 41.

their own, or each other's, or any other applicants' bids or bidding strategies (including post-auction market structure), or discussing or negotiating settlement agreements, until after the down payment deadline[.]"⁶¹ An "applicant" for purposes of this rule includes all "controlling interests" in the entity submitting the FCC Form 175 and/or FCC Form 175-A application, as well as all holders of interests amounting to 10% or more of the entity, and all officers and directors of that entity.⁶² Moreover, the prohibited communications rule for Auction 103 took effect for all existing 39 GHz licensees based on the filing of FCC Form 175-A as part of the Initial Commitment process, even if the existing licensee did not subsequently file FCC Form 175.⁶³

54. This prohibition took effect for all other applicants based on FCC Form 175 filings as of the short-form application filing deadline, which for Auction 103 was Monday, September 9, 2019, at 6:00 p.m. ET, and ends at the post-auction down payment deadline for Auction 103, which is Thursday, March 26, 2020, at 6:00 p.m. ET.⁶⁴ **This prohibition applies to all applicants regardless of whether such applicants became qualified bidders, or actually bid in Auction 103.**⁶⁵ For further information on the prohibition, applicants should refer to the *Auction 103 Procedures Public Notice* and the *Auction 103 Qualified Bidders Public Notice*.⁶⁶

B. Access to the Bidding System

55. The bidding system for the assignment phase of Auction 103 will remain accessible to qualified bidders until 12:00 noon ET on Thursday, March 19, 2020. Bidders should download any files they wish to save from the bidding system before that time.

C. Return of SecurID® Tokens

56. The SecurID® tokens distributed to qualified bidders are tailored to Auction 103 and will not function in future auctions. The Commission will send each bidder, along with the copy of this Public Notice, a pre-addressed, stamped envelope to return its SecurID® tokens. Each bidder should return its SecurID® token(s) to the Commission for recycling by **March 26, 2020**.

⁶¹ 47 CFR § 1.2105(c)(1). The Commission identified AT&T, Sprint, T-Mobile, and Verizon Wireless as "nationwide providers" for the purpose of implementing the Commission's competitive bidding rules in Auction 103. *Auction 103 Procedures Public Notice*, 34 FCC Rcd at 5542, para. 27.

^{62 47} CFR § 1.2105(c)(5)(i); see also Auction 103 Procedures Public Notice, 34 FCC Rcd at 5547, paras. 42-44.

⁶³ Auction 103 Procedures Public Notice, 34 FCC Rcd at 5547, para. 44. For the existing 39 GHz licensees, all of whom were identified in an FCC Form 175-A, the prohibition began at the FCC Form 175-A filing deadline on July 15, 2019. *See id.* at 5547-48, para. 45.

⁶⁴ *Id.* at 5548, paras. 45-46; see also 47 CFR § 1.2105(c)(1).

⁶⁵ See, e.g., Star Wireless, LLC v. FCC, 522 F.3d 469 (D.C. Cir. 2008) (holding that section 1.2105(c) applies to applicants regardless of whether they are qualified to bid). Thus, an auction applicant that does not correct deficiencies in its application, fails to submit a timely and sufficient upfront payment, or does not otherwise become qualified to bid, remains an "applicant" for purposes of the rule and remains subject to the prohibition on certain communications until the post-auction down payment deadline for Auction 103. Auction 103 Procedures Public Notice, 34 FCC Rcd at 5547, para. 42 & n.90.

⁶⁶ Auction 103 Procedures Public Notice, 34 FCC Rcd at 5547-55, paras. 41-68; Incentive Auction of Upper Microwave Flexible Use Service Licenses in the Upper 37 GHz, 39 GHz, and 47 GHz Bands for Next-Generation Wireless Services; 35 Applicants Qualified to Bid in Auction 103, Public Notice, 34 FCC Rcd 9626, 9635-36, paras. 49-53 (WTB/OEA Oct. 31, 2019) (Auction 103 Qualified Bidders Public Notice).

D. Contact Information

57. For further information, contact:

Auction Payment Information

Wire Transfers and Refunds

FCC Auctions Accounting Branch

Scott Radcliffe at (202) 418-7518, or Theresa Meeks at (202) 418-2945, or (202) 418-2843 (fax) or email to

RROGWireFaxes@FCC.Gov

FCC Auctions Hotline at (717) 338-2868

Licensing Information

Service Rules, Policies, Regulations Due Diligence, Incumbency Issues **Broadband Division, WTB**

Simon Banyai at (202) 418-2487

Licensing Issues

Madelaine Maior at (202) 418-1466

Engineering Issues

Tim Hilfiger at (717) 338-2578

Filing Forms 601 and 602

ULS Support Hotline (877) 480-3201, option two (717) 338-2824 (TTY)

Auction 103 Information

General Auction Information, Process, and

Procedures

Auctions Division, OEA

FCC Auctions Hotline at (717) 338-2868

Auction Rules, Policies, and Regulations

Mark Montano or Erik Beith at (202) 418-0660

Accessible Formats

Braille, large print, electronic files, or audio format for people with disabilities Consumer and Governmental Affairs Bureau

(202) 418-0530 or (202) 418-0432 (TTY)

fcc504@fcc.gov

FCC Internet Sites www.fcc.gov/auction/103

www.fcc.gov www.fcc.gov/uls auctiondata.fcc.gov

News Media

For Press Questions

Wireless Telecommunications Bureau

Cecilia Sulhoff at (202) 418-0587

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